

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 23, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB351 by Veasey (Relating to the expunction of records and files relating to a person's arrest.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure by expanding the types of circumstances by which a person is eligible for an expunction of records and files relating to an arrest. The bill would allow for the expunction of records for persons convicted and subsequently granted relief on the basis of actual innocence which would result in an increase in expunctions by an estimated twelve (12), or less, cases per year. The bill would allow a person to expunge records if he/she was not charged via an indictment or information has been dismissed following the arrest and a specified amount of time has elapsed from the date of arrest depending on the offense, and if the attorney representing the state determines that the arrest records and files are not needed for other criminal investigations.

However, if the state were to determine that the person who is the subject of an expunction order is still subject to conviction, the bill would provide for the court to allow applicable law enforcement agencies and the prosecuting attorney to retain arrest records (for a certain amount of time) of said person even after expunction.

Currently, persons seeking expunctions must wait until the statute of limitations expires. The provisions in this bill could cause an increase in the number of expunctions filed for new arrests and those arrests which are currently waiting for the statute of limitations to expire. The prosecutor can agree to the expunction without considering the statute of limitations or lack of probable cause.

A person who knowingly absconds after being released following an arrest would be ineligible for an expunction of records and files relating to that arrest per the provisions of the bill.

The Office of Court Administration and the Texas Department of Criminal Justice anticipate no significant fiscal impact from the bill. This analysis assumes that the Department of Public Safety could implement the provisions of the bill within existing resources. The Board of Pardons and Paroles anticipates a fiscal impact, but cannot determine whether the fiscal impact would be significant as the number of persons affected cannot be determined.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 696 Department of Criminal Justice, 697 Board of Pardons and Paroles

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